

1 Tania L. Whiteleather SBN 141227
Law Offices of Tania L. Whiteleather
2 5445 E. Del Amo Blvd., Suite 207
Lakewood, CA 90712
3 562-866-8755 562-866-6875 (facsimile)
tlwhiteleather@gmail.com
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5 Attorney for Plaintiff
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 HANNAH HENRY,)	CASE NO.
)	
11 Plaintiff)	COMPLAINT FOR BREACH OF IDEA
)	AGREEMENT AND FOR ENFORCEMENT
12 v.)	ENFORCEMENT OF AGREEMENT
)	
13 NAPA VALLEY UNIFIED)	
14 SCHOOL DISTRICT, a)	
Local Educational)	
15 Agency))	
)	
16 Defendant.)	

17 Plaintiff HANNAH HENRY alleges as follows:
18

19 **JURISDICTION AND VENUE**

20 1. This Court has original jurisdiction of this
21 action under 28 U.S.C. § 1331 because it arises under the
22 Individuals with Disabilities Education Act (IDEA)
23 20 U.S.C. § 1400 et seq. This is an action for payment to
24 the parent of a student with a disability for the
25 attorney's fees she incurred in an administrative due
26 process hearing held through the California Office of
27 Administrative Hearings ("OAH"), OAH Case No. 2015120812/
28 2016010051 and which were to have been paid pursuant to a
settlement agreement entered into by the parties.

1 Jurisdiction is conferred by 28 U.S.C. § 1343.

2 2. Venue is proper in the Northern District of
3 California under 28 U.S.C. § 1391(b) because Plaintiff and
4 Defendant are located in this district and because the
5 claims arose in this district.

6 3. Plaintiffs have exhausted their administrative
7 remedies through settlement of OAH Case No. 2015120812/
8 2016010051.

9 **THE PARTIES**

10 4. Plaintiff HANNAH HENRY is the mother of H.T., a
11 minor student with a disability who is eligible for
12 special education services pursuant to the IDEA.

13 5. Defendant NAPA VALLEY UNIFIED SCHOOL DISTRICT
14 ("District") is, and at all times herein mentioned was, a
15 school district duly organized and existing under the
16 laws of the State of California as a local educational
17 agency ("LEA"). At all times relevant to this matter,
18 the District has had sole responsibility for the
19 provision of a free and appropriate public education
20 ("FAPE") to H.T., and has had the duty to comply with all
21 mandates of IDEA and with State and federal law.

21 **COMPLAINT**

22 6. On November 18, 2015, the District filed a due
23 process complaint against H.T., alleging that his parent
24 was refusing to consent to its offer of FAPE.

25 7. On December 29, 2015, Hannah Henry filed a due
26 process administrative hearing complaint against the Napa
27 Valley Unified School District (hereinafter, "District").
28 That complaint alleged violations of IDEA and State law

1 that denied her son, H.T., a free and appropriate public
2 education or "FAPE."

3 8. Plaintiff filed an Amended Complaint on or about
4 February 16, 2016, adding issues which alleged further
5 violations of IDEA and denials of FAPE by the District.

6 9. The parties met to discuss the pending complaints
7 and, on April 4, 2016, entered into a full and complete
8 settlement of the issues raised by their respective due
9 process complaints.

10 10. One term of that agreement stated that

11 District agrees to reimburse reasonable
12 attorney's fees in an amount not to
13 exceed eighteen thousand dollars (\$18,000)
14 for attorney fees related to *Napa Valley*
Unified School District v. Parent on
Behalf of Student and Parent on Behalf
of Student v. Napa Valley Unified School
District, OAH Consolidated Case No. 2016010051.

15 The terms of the settlement agreement called for
16 payment to Plaintiff's attorney "within forty-five (45)
17 days of District's receipt of an itemized statement of
18 attorney's fees and services" from the attorney. As a
19 condition to payment, Plaintiff was to provide an itemized
20 billing statement of attorney's fees to District.

21 11. The agreement required that District's Board
22 approve the settlement. Shortly after the agreement was
23 signed, the District's Board approved the settlement.

24 12. On April 26, 2016, counsel for Plaintiff sent to
25 District a letter and Billing Statement. The Billing
26 Statement provided was intentionally "cut off" at the
27 point that the hours and rate totaled \$18,000.

28 13. District did not respond in any way to the letter

1 or Billing Statement provided to District until July 7,
2 2016, when a District administrator provided a check
3 bearing a date of April 27, 2016 in the amount of \$15,200.
4 The administrator, an assistant superintendent, claimed
5 that the reasonable fees to be paid for Plaintiff's
6 services was only \$15,200. In support of his position, he
7 claimed that the rate charged by counsel was too high and
8 that a lower rate, \$450 per hour, was "reasonable." The
9 administrator also rejected the travel expenses charged by
10 counsel, claiming that they should only be billed at one-
11 half the \$450 rate he had determined to be a "reasonable"
12 rate.

13 14. Plaintiff's counsel wrote to the District
14 superintendent, noting the delay of payment and providing
15 additional pages of her Billing Statement which had been
16 previously intentionally omitted. The new pages added
17 several hours of attorney time to the prior statement;
18 the total fees under the full statement was 50.65. Even
19 at the District's \$450 rate, the total fees incurred by
20 Plaintiff in relation to the underlying OAH cases was
21 \$22,792.50. Plaintiff's counsel had not included any
22 costs of travel, i.e., airplane and car rental, and also
23 provided those with her complete Billing Statement to the
24 District.

25 15. Plaintiff's counsel asked the District and its
26 superintendent to honor the agreement it had signed and to
27 issue the payment due counsel within one week. By letter
28 provided on July 7, 2016, Plaintiff sought to resolve the
issue of remaining attorney's fees prior to filing a

1 complaint.

2 16. As of the date of the filing of this complaint,
3 District has failed to make full payment to Plaintiff
4 for her incurred attorney's fees as agreed to in the
5 April 4, 2016 Settlement and Release Agreement.

6 **FIRST CAUSE OF ACTION**

7 FOR PAYMENT OF PLAINTIFFS' REASONABLE ATTORNEY'S
8 FEES AS AGREED TO BY THE PARTIES ON APRIL 4, 2016.

9 17. Plaintiff incorporates by reference each and
10 every allegation of Paragraphs 1 through 16 of the
11 Complaint as though fully set forth herein.

12 18. Plaintiff has incurred substantial attorney's
13 fees in the underlying IDEA due process matters and,
14 through a written settlement, obtained payment of much of
15 those fees by the District. The District has rejected the
16 rate requested by Plaintiff's counsel and, instead, has
17 unilaterally determined that \$450 per hour is a just and
18 reasonable rate for Plaintiff's counsel. District has
19 wrongly (and contrary to Ninth Circuit authority)
20 determined that travel expenses are to be paid at one half
21 counsel's "reasonable" rate.

22 19. District has failed to consider the full billing
23 statement provided by counsel after District disputed (and
24 "determined") counsel's customary rate. Despite having
25 been provided with a full and complete Billing Statement
26 by Plaintiff's counsel, District has failed to pay the
27 full amount of Plaintiff's attorney's fees it agreed to
28 pay on April 4, 2016.

20. Plaintiffs' attorneys' fees and costs are both

1 reasonable and within the range of services for the
2 services provided to Plaintiff, whether at her customary
3 rate or at the rate "determined" by District and support
4 a payment of the full amount contemplated by the parties'
5 agreement of April 4, 2016.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray for relief as follows:

- 8 1. For an order that District has failed to
9 comply with the Settlement and Release
10 Agreement its agent signed on April 4, 2016
11 and which its Board approved to pay to
12 Plaintiff's counsel up to \$18,000;
- 13 2. That Plaintiff's counsel must be provided
14 with a check for the remaining funds due
15 under the Settlement and Release Agreement
16 within seven business days;
- 17 3. For payment of Plaintiff's reasonable
18 attorney's fees and costs for the
19 prosecution of this matter;
- 20 4. For such further and additional relief as
21 the Court may deem just and proper.

22 Dated: July 15, 2016

23 By: *Tania L. Whiteleather* _____
24 TANIA L. WHITELEATHER
25 Attorney for Plaintiff
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